Preserve

PRESERVE

App. F. IX-4

Previous References

1929-30 (97)

File No. 219-29

Serial Nos. 1-2

Later References

12. 150.30 (102)

1.8 (E)

General and Revenue Secretariat.

Serial Nos. 2 to.

Part B for June 1930

SUBJECT

Necessity for a Succession certificate instead of an indemnity bond, for withdrawing the Savings Bank deposit in the name of Late Mr. G. Rama Rao by his son Mr. G. Sundara Rao I Class Magistrate Davangere

No. K 7920 dt. 4.6.30.

To the Comptroller.

Agrees with his view as stated above

G. R. S. III—1] 1929. 4780

GENERAL AND REVENUE SECRETARIAT.

NOTES.

File No. 219/1929.

FILE HEADING.

Savings Bank deposit of Rs 7000/- in the name of Mr. G. Rama Rao (since deceased) father of Mr. G. Sundara Rao, 1st cl. mag., Damarjere.

From

The Comptr.

No. 356-Sb. Dated 23.4.1930 Received

Diary No. 4780	Enclos. 1	Spare Copies. -	Serial No. 1

BRIEF ABSTRACT OF LETTER.

States that under Sec. 4 of S. B. Act, a succession certificate is necessary for withdrawing the said deposit by Mr. Sundara Rao, who contends that the amount may be paid to him on his furnishing an indemnity bond, and requests Legal Opinion in the matter.

NOTES AND ORDERS.

may be sent to Bot. Br. for obtaining Legal opinion.

Submitted
Sd
29.4.30.

L.R. may be consulted.

Sd
29.4.30

Sd/-

To L.R with compliments

NOTES—First Sheet.

WD 1881—GPB—30,000—1-8-21

Immediate-Slip

General and Revenue Secretariat. | File No. of 192

Serial No.

The cases quoted by Mr Sundaradiers (6 M.C.C.R. 56, 65 and 13 M.C.R. 129) decide that the provisions of Sec 4 of the Succ^n Certificate Regulation that no Court shall pass a decree against a debtor for payment of his debt without the production of a Succ^n Certificate does not apply to a case in which the right to sue accrues by survivorship. This does not mean that the debtor ~~has~~ is bound to pay the debt to a person who claims to be the representative of his deceased creditor, without insisting upon a Succession Certificate or other evidence which proves beyond doubt the representative character of the claimant ~~and thus protects~~ so that the debtor ~~from~~ may get a valid discharge from his liability.

In cases covered by sections 4 ~~&~~ of the Savings Bank Act, the disbursing officer gets a valid discharge under sec 5 by making payment to the person whom he finds after due enquiry to be the person entitled to the amount. In other cases, he has ~~no~~ to insist ~~necessary~~ on the claimant producing a Succ^n Certificate so that he may run.

NOTE—Contn. sheet.

WD 066—GPB—30,000—26-7-29

5632/29 P.C. 478

App. F. III—2]

General and Revenue Secretariat | File No | of 192 .

Serial No.

no risk in making the payment to a person not entitled to the estate of the deceased.

The person claiming the amount by right of survivorship is not disabled from filing a Succn Certificate on the grounds that he does not claim it by succession (5 Mys L.J. 154). As observed in this case, "If the party finds it difficult to get payment without a Succn Certificate and prefers to obtain a certificate instead of filing a regular suit, there is nothing to prevent the Court from granting him one".

As regards the question of costs, since it is the duty of the claimant to establish his right before asking for payment, it is he that has to bear the costs and not the debtor. If without producing a Succn Certificate in such cases, he resists to Court, it is he that will be liable for the costs of the litigation even though he may be able to show that he can get a decree without the production of a certificate (Vide 15 All 333)

145 / 30.4.30

DM / 1/5/30. To: sect with compts.

To M. 16/5

To 17/5

16677 - 17/5

AS 17.5.30 Reply of the Compte that in view of this is correct and that a Succn Certificate

NOTE—Contn. sheet

General and Revenue Secretariat. | File No. 47801/28 of 192

Serial No.

AV 19/5

7507 20/5

14873

B.

Shd be written on. The amount cannot be paid on an indemnity bond. Draft below approved by the member. 19.5.30

Draft submitted 20/5/30.

Draft for approval 20/5/30

18th member

21.5.30

22.5.30

by the Comptr., no. 7970 dt 4/6/30 agrees in his view that a Succ. Certificate should be insisted on for payment of S. B. deposit

NOTE—Contn. sheet.

G.J 219.29-1

EARLY.

OFFICE OF THE COMPTROLLER TO THE GOVERNMENT
OF HIS HIGHNESS THE MAHARAJA OF MYSORE,

No. 356 S.B. Bangalore, dated 23rd April 1930.

24 APR.

GENL. & REV. SECTT. 4780 25 APR. 1930 FINANCIAL BRANCH.

From

S. SHAMANNA, Esq., B.A.,
Comptroller to the Government of
His Highness the Maharaja of Mysore,
Bangalore.

To

Rajasevaparayana
B. Srinivasa Iyengar, Esq., B.A., B.L.,
Secretary to the Government of Mysore,
Financial Department, Bangalore.

Sir,

I have the honor to forward herewith a copy of letter dated 1st April 1930 received from Mr. G. Sundara Rao, regarding the payment of a sum of about Rs.7,000/- from Savings Bank Account No.13409 standing in the name of his father Mr. G. Rama Rao since deceased and to state that under Section 4 of the Savings Bank ~~Account~~ Act (Vide also Notification No.P.3616-Legis.28-29-1 dated 18th January 1930) the production of a Succession Certificate is insisted upon in all cases in which nominations have not been made by the depositors and where the sums involved exceed the discretionary powers vested in the Treasury Officers. This procedure has been followed all along and the production of the Succession Certificate has not been dispensed with in any case so far.

Mr. Sundara Rao contends that a Succession Certificate is not required in his case and quotes some decided cases of the Chief Court in support. My own view is that his contention is not correct and the Chief Court decisions relate to a different class of cases. However, I request you to obtain the authoritative opinion of the Law Department regarding the correctness of the view held by this office that a Succession Certificate is absolutely necessary in the case.

I have the honor to be,
Sir,
Your most obedient servant,

S. Shamanna
Comptroller.

Bang 234/30

MSR

234/30

Copy of letter dated 1st April 1930 from Mr. G. Sundara Rao, First Class Magistrate, Davangere, to the Comptroller in Mysore, Bangalore.

With reference to my letter dated 3rd February 1930 and reminder thereon dated 9th March 1930, re. the transfer of the account No.13409 at the State Huzur Treasury standing in the name of my deceased father G. Rama Rao, I have not yet received any reply either from you or from the State Huzur Treasury Officer. But when I met you personally on the 26th March 1930 in your office, you were pleased to say that I may write to you requesting for the payment of the amount which is over Rs.7,000/- to me as the survivor after the death of my father of the Joint Hindu Family. Though Section 4 of the Savings Bank Regulation seems to suggest by a negative implication that for amounts over a certain monetary limit a Succession Certificate or a Court Certificate of heirship is necessary in such cases, Section 54 of the Succession Certificate Regulation definitely negatives the implication. The following decided cases of our own Chief Court are authorities for the position that no Succession Certificate is necessary when a claim is by right of survivorship. Vide 6 Mysore C.C.R.56, 6 Mys C.C.R.65, 13 Mys C.C.R.12

If therefore I have to resort to such a certificate, it seems to be a correct proposition of the Law of Costs that the party responsible will be liable for the costs. But apart from this legal aspect, I should think that I being a Government servant in the Gazetted Rank may be paid this amount. On furnishing an indemnity bond in the required form binding myself to indemnify the Government against any possible claims in the futur I shall be thankful if this position is examined afresh from the legal points of view and a conclusion is arrived at very early. I learn that the State Huzur Treasury Officer has stopped the accrual of interest on the amount, though I have not been informed of it. Hence the urgency of this case. Requesting a very early reply.

Bag 23 4/30

Superintendent, Records Section
Comptroller's Office.

MSR

Appendix F G—1

SUBJECT.....

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Section G.7

File No.

Serial No. 219-29

No. H7970 2

Diary No. of letter replied to.....

General and Revenue Secretariat

( )

the 193

To

The Cmsstr

Sir,

Date of issue 11.6.30

Adverting to your letter no

356 S.B. Dt 28.4.930 stating that

Signed by..... DMAN.R

under Sec. 4 of the S.B. Act

a Succession certificate is

necessary for withdrawing

the S.B. deposit of Rs 700

in the name of the late

Mrs. G. Rama Rao, by the

List of enclosures.....

Letter of Sri Mrs. G. Sundara

Rao, 1st cl. mag who Cmsstr

2.7 2/7/30 Copied by.....

that the amount may

be paid to him on his

Examined by.....

furnishing indemnity Bond

over

and requesting Legal Opinion in
the matter, I am directed to
State ~~that your View is Correct,~~
~~that~~ that a Succession Certificate
should be insisted on, and that
the amount cannot be paid
on an Indemnity Bond. as requested by his
Letter, &c. Dundas Chm.

Yours &c

21/5/36